**PATENTS** 

# IN THE UNITED STAT S PATENTS AND TRADEMARK OFFICE

Applicant(s): Nicholas K. Hayward, et al.

Examiner:

Unassigned

Serial No.:

09/907,007

**Art Unit:** 

Unassigned

Filed:

July 17, 2001

Docket:

10441B

For:

A NOVEL GROWTH FACTOR

Dated:

October 24, 2001

AND A GENETIC SEQUENCE

**ENCODING SAME** 

Assistant Commissioner for Patents Washington, DC 20231

### RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice To File Missing Parts of Nonprovisional Application dated September 20, 2001 which indicated that the oath or declaration was missing in connection with the filing of the above-identified application, it is respectfully submitted that the required Declaration was in fact include in the papers which accompanied the filing of the application on July 17, 2001.

The subject application is a divisional application of U.S. Serial No. 08/765,588 which had an effective U.S. filing date of February 22, 1996. the inventors of the subject divisional application are identical to those identified in the parent application and the subject application contains no additional subject matter than that which was originally found in the parent application.

## **CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on October 24, 2001.

Dated: October 24, 2001

Under these circumstances, and in accordance with 37 C.F.R. §1.63(d)(1), a newly executed oath or declaration is not required in a divisional application, but rather merely a copy of the previously executed Declaration filed in connection with the parent application. In this regard, attached hereto is a copy of the postcard indicating the copy of the Declaration was filed, stamped and dated as having been received by the U.S. Patent and Trademark Office. For the Examiner's convenience, a further copy of the previously filed Declaration is attached as well.

Under the above circumstances, it is respectfully submitted that the Notice To File Missing Parts of Nonprovisional Application dated September 20, 2001 was issued in error, the copy of the executed Declaration from the parent application fulfills the requirement of the oath or declaration in the subject divisional application, and no oath or declaration surcharge should be required.

A copy of the Notice To File Missing Parts Of Nonprovisional Application is enclosed, which set a deadline of <u>November 20, 2001</u> for submitting the Declaration. Note that a faxed copy of the executed document can be filed to meet this deadline.

If you have any questions, please do not hesitate to contact our office.

Respectfully submitted,

Edward W. Grolz

Registration No. 33,705

SCULLY, SCOTT, MURPHY & PRESSER 400 Garden City Plaza Garden City, New York 11530 (516) 742-4343

EWG:yp









#### United States Patent and Trademark Office.

COMMISSIONER FOR PATENTS

United States Patent and Trademark Office WASHINGTON, D.C. 20231

www.uspto.gov

APPLICATION NUMBER

FILING/RECEIPT DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NUMBER

09/907,007

07/17/2001

Nicholas Kim Hayward

10441B

**CONFIRMATION NO. 8056** 

FORMALITIES LETTER

\*OC000000006578508\*

SCULLY, SCOTT, MURPHY & PRESSE 400 Garden City Plaza Garden City, NY 11530



Date Mailed: 09/20/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

#### FILED UNDER 37 CFR 1.53(b)

#### Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing. A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

A copy of this notice MUST be returned with the reply.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

03/08/2002 SSALEEKU 00000011 191013

01 FC:105

130.00 CH

DAVIES FSD/PIB



#### **COPY OF PAPERS ORIGINALLY FILED**

### PATENT OFFICE DATE STAMP WILL ACKNOWLEDGE RECEIPT OF:

- 1. New Utility Patent Application Transmittal (in duplicate)
- 2. New Utility Application (58 pages of specification to include claims; and abstract)
  - 3.52 sheets formal drawings
  - 4. Check for \$1940.00
  - 5. Copy of Declaration and Power of Attorney from parent case
  - 6. Certificate of Express mail # EL895322243US
  - 7. Preliminary Amendment
  - 8. Request to Use Sequence Listing from Parent Application
  - 9. Verification
  - 10. Paper Copy

Applicant:

Nicholas K. Hayward, et al.

Serial No.:

Unassigned

Filed:

Herewith

FOR:

A NOVEL GROWTH FACTOR AND A GENETIC

SEQUENCE ENCODING SAME

Docket:

10441B

Dated:

July 17, 2001

60